

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	:	
Petition for Declaratory Ruling that tw	:	WC Docket No. 11-119
telecom, inc. has the Right to Direct IP-to-	:	
IP Interconnection Pursuant to Section	:	
251(c)(2) of the Communications Act, as	:	
Amended, for the transmission and Routing	:	
of tw telecom's Facilities-Based VoIP	:	
Services and IP-in-the-Middle Voice	:	
Services.	:	

**COMMENTS
SUBMITTED ON BEHALF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

August 17, 2011

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	:
Petition for Declaratory Ruling that tw	: WC Docket No. 11-119
telecom, inc. has the Right to Direct IP-to-	:
IP Interconnection Pursuant to Section	:
251(c)(2) of the Communications Act, as	:
Amended, for the transmission and Routing	:
of tw telecom's Facilities-Based VoIP	:
Services and IP-in-the-Middle Voice	:
Services.	:

**COMMENTS
SUBMITTED ON BEHALF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

INTRODUCTION AND SUMMARY

On June 30, 2011, tw telecom, inc. (TWTC) filed a petition with the Federal Communications Commission (FCC) seeking a declaratory ruling. Specifically, TWTC seeks a ruling that Section 251(c)(2) of the Telecommunications Act of 1996 (Act) authorizes it to establish direct Internet protocol-to-Internet protocol (IP-to-IP) interconnection with incumbent local exchange carriers (ILECs) for the transmission and routing of its facilities-based voice over Internet protocol (VoIP) services as well as voice services that originate and terminate in Time Division Multiplexing (TDM) format, but

are converted to IP format for transport (IP-in-the-middle) (Petition).¹ The FCC established a comment period for the Petition with initial comments due by August 15, 2011 and reply comments due by August 30, 2011. The Public Utilities Commission of Ohio (Ohio Commission) believes that the Petition is consistent with its historic positions on the issues of IP interconnection and VoIP classification and it submits these brief comments supporting TWTC's Petition for the FCC's consideration.

DISCUSSION

Section 251 of the Telecommunications Act sets forth interconnection requirements for telecommunications carriers.² In particular, Section 251(c)(2) establishes interconnection obligations specific to ILECs. Among these is the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the ILEC's network for the transmission and routing of telephone exchange service and exchange access at any technically feasible point within the carrier's network.³ This obligation is not conditioned upon the use of a specific protocol or technology where the requesting party is a telecommunications carrier and the interconnection is used for the transmission and routing of telephone exchange and exchange access services.

¹ *In the Matter of petition for Declaratory Ruling That tw telecom inc. has the Right to Direct Ip-to-IP Interconnection Pursuant to Section 251(c)(2) of the Communications Act, as Amended, for the Transmission and Routing of tw telecom's Facilities-Based VoIP Service and IP-in-the-Middle Voice Services*, WC Docket No. 11-119 (Petition for Declaratory Ruling of tw telecom, inc. at 1-2) (filed June 30, 2011) (Petition).

² 47 U.S.C. § 251 (2011).

³ *See* 47 U.S.C. § 251(c)(2)(A)(B) (2011).

The Ohio Commission has long supported the classification of VoIP as a telecommunications service⁴ and it agrees that TWTC's facilities-based VoIP service meets the statutory definition of a telecommunications service.⁵ The FCC recently noted that VoIP traffic is "telecommunications" traffic.⁶ As telecommunications that are offered to the public for a fee,⁷ TWTC's facilities-based VoIP service is a

⁴ See *In the Matter of IP Enabled Services*, WC Docket No. 04-36 (Comments of the Public Utilities Commission of Ohio) (filed May 28, 2004); *In the Matter of High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Contribution Methodology, Numbering Resource Optimization, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Developing a Unified Intercarrier Compensation Regime, Intercarrier Compensation for ISP-Bound Traffic, IP-Enabled Services*, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, WC Docket No. 06-122, CC Docket No. 99-200, CC Docket No. 96-98, CC Docket No. 01-92, CC Docket No. 99-68, WC Docket No. 04-36 (Comments Submitted on Behalf of the Public Utilities Commission of Ohio) (filed November 26, 2008).

⁵ "Telecommunications service" is defined by the Act as "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." 47 U.S.C. § 153(46) (2011).

⁶ See *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109 (Notice of Proposed Rulemaking and Further Notice or Proposed Rulemaking at ¶ 615) (rel. Feb. 9, 2011); "Telecommunications" is defined by the Act as "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." 47 U.S.C. § 153(48) (2011).

⁷ TWTC indicates that it offers its facilities-based VoIP service to all customers for a fee. See Petition at 10.

telecommunications service and, as a provider of telecommunications service, TWTC is a telecommunications carrier.⁸

The Ohio Commission further agrees that TWTC's facilities-based VoIP service is comparable to local exchange service because its subscribers may use TWTC's facilities to originate and terminate a telecommunications service. As such, TWTC's facilities-based VoIP service meets the statutory definitions of telephone exchange and exchange access services.⁹ Furthermore, TWTC states that it has successfully interconnected with two long distance providers and an E911 provider using IP-to-IP for the exchange of facilities-based VoIP traffic.¹⁰ Section 51.305(c) of the FCC's rules clearly recognizes such interconnection as substantial evidence that IP-to-IP interconnection is technically feasible at that point, or at substantially similar points, in networks employing substantially similar facilities. In the Ohio Commission's view, the facilities of an inter-exchange carrier and an ILEC are substantially similar and interconnection between TWTC and an ILEC should be deemed to be technically feasible. Consequently, the Ohio Commission supports TWTC's right to establish direct IP-to-IP interconnection

⁸ "Telecommunications carrier" is defined by the Act as "any provider of telecommunications service...[.]" 47 U.S.C. § 153(44) (2011).

⁹ "Telephone exchange service" is defined by the Act to include "comparable service provided through a system of switched, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service." 47 U.S.C. § 153(47)(B) (2011). "Exchange access" is defined by the Act as "the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services." 47 U.S.C. § 153(16) (2011).

¹⁰ See Petition at 20-21, citing the Declaration of Michael T. McNamara at ¶ 10.

with ILEC facilities, at any technically feasible point within the ILEC's network, for the transmission and routing of facilities-based VoIP service that is at least equal in quality to that provided by the ILEC to itself or any subsidiary, affiliate or any other party to which the ILEC provides direct IP-to-IP interconnection.

In addition to facilities-based VoIP service, the Ohio Commission supports TWTC's request for a declaratory ruling clarifying that it has the right to direct IP-to-IP interconnection with ILEC networks for IP-in-the-middle voice services. However, in the Ohio Commission's view, IP-in-the-middle services are not facilities-based VoIP services as defined in the Petition, but rather are typical telephone exchange and exchange access services. Accordingly, the Ohio Commission believes that all of the obligations extended to ILECs under Section 251(c), including technical feasibility and quality of service, should apply to IP-in-the-middle services.

CONCLUSION

The Ohio Commission supports TWTC's petition seeking a declaratory ruling clarifying that TWTC has the right, under Section 251(c)(2) of the Act, to establish direct IP-to-IP interconnection of its facilities-based VoIP service and IP-in the-middle services with ILEC networks. As a telecommunications carrier providing telephone exchange and exchange access services, TWTC is entitled to interconnection at any technically feasible point with the ILEC network that is at least equal in quality to that provided by the ILEC to itself or any subsidiary, affiliate or any other party to which the ILEC provides

interconnection. Accordingly, the Ohio Commission urges the FCC to grant TWTC's Petition.

Respectfully submitted,

/s/ William L. Wright

William L. Wright

180 East Broad Street, 6th Floor

Columbus, OH 43215-3793

614.466.4397 (telephone)

614.644.8764 (fax)

william.wright@puc.state.oh.us

Attorney for the

The Public Utilities Commission of Ohio

Dated: August 17, 2011